

1970

c 307 Ontario Deposit Insurance Corporation Act

Ontario

© Queen's Printer for Ontario, 1970

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Ontario Deposit Insurance Corporation Act, RSO 1970, c 307

Repository Citation

Ontario (1970) "c 307 Ontario Deposit Insurance Corporation Act," *Ontario: Revised Statutes*: Vol. 1970: Iss. 4, Article 15.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1970/iss4/15>

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Revised Statutes by an authorized administrator of Osgoode Digital Commons.

CHAPTER 307

**The Ontario Deposit Insurance
Corporation Act****1. In this Act,**Interpre-
tation

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "by-laws" means the by-laws of the Corporation;
- (c) "Chairman" means the Chairman of the Board;
- (d) "Corporation" means the Ontario Deposit Insurance Corporation established by this Act;
- (e) "deposit" means a deposit as defined by section 23;
- (f) "loan corporation" has the same meaning as it has in *The Loan and Trust Corporations Act*;
- (g) "member institution" means a loan corporation or trust company incorporated under the laws of Ontario and registered under *The Loan and Trust Corporations Act*;
- (h) "Minister" means the Minister of Financial and Commercial Affairs;
- (i) "Registrar" means the Registrar under *The Loan and Trust Corporations Act*;
- (j) "trust company" has the same meaning as it has in *The Loan and Trust Corporations Act*. 1967, c. 61, s. 1; 1967, c. 62, s. 1.

R.S.O. 1970,
c. 254

PART I

THE CORPORATION

2.—(1) The Ontario Deposit Insurance Corporation is continued, consisting of the persons who make up the Board.

Corporation
continued

(2) The Corporation is, for all purposes of this Act, an agent of Her Majesty, and its powers under this Act may be exercised only as an agent of Her Majesty.

Crown
agency

(3) *The Business Corporations Act* does not apply to the Corporation.

R.S.O. 1970,
c. 53, not
to apply

(4) The Corporation has power to acquire, hold and alienate real and personal property.

Property

Idem (5) Property acquired by the Corporation is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Corporation.

Legal proceedings. (6) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Corporation in any court that would have jurisdiction if the Corporation were not an agent of Her Majesty. 1967, c. 61, s. 2, *amended*.

Head office **3.—**(1) The head office of the Corporation shall be at the City of Toronto and at such place therein as the Board shall from time to time determine.

Offices and agents (2) The Corporation may establish offices or employ agents in any part of Ontario. 1967, c. 61, s. 3.

Board of directors **4.—**(1) The Board shall consist of the person appointed as the Chairman and the persons who for the time being hold, respectively, the offices of the Deputy Treasurer of Ontario and Deputy Minister of Economics, the Comptroller of Finance, the Deputy Minister of Financial and Commercial Affairs, and the Registrar, and such other persons as may be appointed by the Lieutenant Governor in Council. 1967, c. 61, s. 4 (1), *amended*.

Alternate director (2) In the event of the absence or incapacity of any director of the Corporation other than the Chairman, the Minister may appoint, for a period not exceeding thirty days, an alternate for such director who shall serve on the Board during such absence or incapacity and who shall, while so serving, be deemed to be a member of the Board.

Travelling expenses (3) A member of the Board shall be paid by the Corporation reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director, but no director of the Corporation, other than the Chairman, shall receive any other remuneration for his services on the Board. 1967, c. 61, s. 4 (2, 3).

Chairman **5.—**(1) The Lieutenant Governor in Council shall appoint a person to be the Chairman.

Disqualification (2) No person is eligible to be appointed or to continue as Chairman who,

- (a) is not a Canadian citizen ordinarily resident in Ontario;
- (b) is a member of the Senate or House of Commons of Canada or a member of the Assembly;
- (c) is a director, officer or employee of a member institution; or
- (d) has reached the age of seventy years.

(3) The Chairman shall preside at all meetings of the Board, but, where at any meeting the Chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the Chairman. Functions

(4) The Chairman shall be paid by the Corporation such remuneration as may be fixed by the Lieutenant Governor in Council. 1967, c. 61, s. 5. Remuneration

6. The Chairman, the other members of the Board and the officers and employees of the Corporation are not personally liable for anything done by the Board or any of them under the authority of this Act. 1967, c. 61, s. 6. No personal liability

7.—(1) The authorized capital of the Corporation is \$5,000,000 divided into five shares of the par value of \$1,000,000 each. Authorized capital

(2) The Treasurer of Ontario shall subscribe for the five shares of the capital stock of the Corporation and shall pay the amount of such subscription out of the Consolidated Revenue Fund at such time or from time to time as the Corporation may require. Subscription

(3) The shares of the capital stock of the Corporation are not transferable and shall be registered in the books of the Corporation in the name of the Treasurer of Ontario and held by him in trust for Her Majesty. 1967, c. 61, s. 7. Shares not transferable

8. The financial year of the Corporation ends on the expiration of the 31st day of December in each year. 1967, c. 61, s. 8. Financial year

9. The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor. 1967, c. 61, s. 9. Audit

10. The Corporation shall be responsible to the Minister and shall, within three months after the termination of each financial year of the Corporation, transmit to the Minister a statement relating to the activities of the Corporation for that year, including the financial statements of the Corporation and the Provincial Auditor's report thereon, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1967, c. 61, s. 10. Annual report

11. The objects of the Corporation are, Objects

- (a) to provide, for the benefit of persons having deposits with member institutions, insurance (herein referred to as "deposit insurance") against the loss of part or all of

such deposits by making payments to such persons to the extent and in the manner authorized by this Act;

- (b) to provide the deposit insurance required by this Act for member institutions;
- (c) to examine into the affairs of member institutions for the purpose of obtaining information relative to deposit insurance; and
- (d) to accumulate, manage and invest a deposit insurance fund and any other funds accumulated as the result of the operations of the Corporation. 1967, c. 61, s. 11.

Powers

12. The Corporation may do all things necessary or incidental to the objects of the Corporation and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects,

- (a) acquire assets from a member institution, make loans or advances to a member institution and take security therefor and guarantee loans to or deposits with a member institution, for the purpose of reducing a risk to the Corporation or reducing or averting a threatened loss to the Corporation;
- (b) act under section 34 when duly authorized and appoint persons, whether employees or not of the Corporation, to carry out any or all of the functions of the Corporation;
- (c) assume the costs of a winding up of a member institution when the Corporation is appointed to act as a liquidator in the winding up or assume the costs of the receiver when the Corporation is appointed to act as such and charge such costs of winding up or receivership to the Accumulated Net Earnings of the Corporation;
- (d) acquire assets of a member institution from a liquidator or receiver thereof;
- (e) make an advance for the purpose of paying a claim, against a member institution for which the Corporation is acting as receiver or liquidator, in respect of any insured deposit and become subrogated as an unsecured creditor for the amount of such advance;
- (f) make or cause to be made such inspections of a member institution as may be authorized under this Act; and
- (g) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation. 1967, c. 61, s. 12.

Powers and
duties of
Board

13.—(1) The Board shall administer the affairs of the Corporation in all things and make, or cause to be made, for the

Corporation any description of contract that the Corporation may be law enter into; and, subject to the approval of the Lieutenant Governor in Council, the Board may make by-laws for,

- (a) the administration, management and control of the property and affairs of the Corporation;
- (b) the functions, duties and remuneration of all officers, agents and employees of the Corporation;
- (c) the appointment or disposition of any special committees from time to time created by the Board for the purposes of the Corporation;
- (d) the issue of the shares of the Corporation;
- (e) the declaration and payment of dividends;
- (f) determining the seal of the Corporation;
- (g) the time and place for the holding of meetings of the directors, the quorum at such meetings and the procedure in all things at such meetings;
- (h) prescribing standards of sound business and financial practices for member institutions;
- (i) authorizing and controlling the use by member institutions of marks, signs, advertisements or other devices indicating that deposits with such institutions are insured by the Corporation; and
- (j) the conduct in all other particulars of the affairs of the Corporation.

(2) For the purpose of carrying out any inspection authorized by this Act, the Board may appoint any person to carry out any such inspection, and the person so appointed has the like powers as may be conferred on a commissioner appointed under *The Public Inquiries Act*. 1967, c. 61, s. 13.

Powers of inspection

R.S.O. 1970,
c. 379

14.—(1) Subject to the approval of the Lieutenant Governor in Council and to section 21, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may consider requisite for any of the purposes of the Corporation by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine.

Borrowing powers

(2) The purposes of the Corporation, without limiting the generality thereof, include,

Purposes of Corporation

- (a) the carrying out of the objects of the Corporation;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money borrowed or raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances;
- (d) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation; and
- (e) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

Sale, etc.,
of Cor-
poration's
securities

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the principal amount thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Authoriza-
tion

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized is conclusive evidence to that effect.

Execution
of securities

(5) The notes, debentures and other securities of the Corporation shall be executed in such manner as the Corporation, with the approval of the Lieutenant Governor in Council, may determine.

Mechanical
reproduc-
tion of seal
and
signature
authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note, and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. 1967, c. 61, s. 14.

Securities of
Corporation
redeemable
in advance

15. Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation may determine at the time of the issue thereof. 1967, c. 61, s. 15.

16.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act. Guarantee of payment by Ontario

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. Form of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon Ontario and is not open to question upon any ground whatsoever. Validity of guaranty

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. 1967, c. 61, s. 16, *amended*. Guaranteed debentures, etc., to be indefeasible

17. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. 1967, c. 61, s. 17. Trustee, etc., investments in debentures

18.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario, Sale of Corporation's securities to Ontario and provincial advances to Corporation authorized

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

(2) The moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund. 1967, c. 61, s. 18. Idem

19. The Corporation may, in its discretion, invest any funds not required in carrying out its objects in debentures or other securities of Canada or of Ontario, or in any securities guaranteed as to principal and interest by either of them. 1967, c. 61, s. 19. Investment of funds

20.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation borrow by way of temporary loan from any chartered bank or from any person such sums as the Corporation considers requisite, either by way of bank overdraft or loan or in any other manner whatsoever. Temporary loans

(2) For the purposes of subsection 1, the Corporation may pledge as security notes, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same Idem

or may pledge as security bonds, debentures or other securities owned by the Corporation or otherwise give such security as the Corporation may determine, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Corporation may determine. 1967, c. 61, s. 20.

Limit of
borrowing
powers

21.—(1) The Corporation shall not borrow or raise by way of loan any sums of money if, after giving effect to such borrowing or loan, the aggregate principal amount of the outstanding debentures, bills and notes issued by the Corporation, of temporary loans raised by the Corporation and of outstanding advances to the Corporation from the Treasurer of Ontario, would exceed \$250,000,000.

Idem

(2) Notwithstanding subsection 1, the Corporation shall not question the validity of any borrowings by it, or of any debentures, bills or notes issued by it, all of which shall be binding upon the Corporation. 1967, c. 61, s. 21.

PART II

MEMBER INSTITUTIONS

Applications
for Federal
deposit
insurance
authorized
1966-67,
c. 70 (Can.)

Federal-
Provincial
agreements
authorized

22.—(1) Every member institution is authorized to apply to the Canada Deposit Insurance Corporation for deposit insurance under the *Canada Deposit Insurance Corporation Act*.

(2) The Minister on behalf of Ontario may enter into agreements with the Canada Deposit Insurance Corporation for any purpose in connection with the issuing of policies of deposit insurance to loan corporations and trust companies incorporated under the laws of Ontario.

Idem

(3) Any such agreement may contain an undertaking by Ontario to indemnify the Canada Deposit Insurance Corporation for any loss to that corporation occurring by reason of its obligation to make payment in respect of any deposit insured by a policy of deposit insurance where the obligation arises during the period specified for that purpose in such agreement. 1967, c. 62, s. 2, *part, amended*.

PART III

DEPOSIT INSURANCE

Deposit
insurance
required
R.S.O. 1970,
c. 254

23.—(1) No loan corporation or trust company registered under *The Loan and Trust Corporations Act* shall, after the 30th day of June, 1967, accept, receive or issue deposits unless it holds a certificate or policy of deposit insurance issued by the Canada

Deposit Insurance Corporation or unless its deposits are insured in some other manner approved by the Lieutenant Governor in Council.

(2) In the case of any particular loan corporation or trust company the Lieutenant Governor in Council may extend the time for effecting the insurance mentioned in subsection 1. 1967, c. 62, s. 2, *part.* Extension of time

24. For the purposes of this Act, a deposit is,

- (a) money deposited with a loan corporation or trust company registered under *The Loan and Trust Corporations Act* in respect of which such corporation or company is liable to the depositors; or Deposit defined
R.S.O. 1970,
c. 254
- (b) money received under section 89 of *The Loan and Trust Corporations Act* by a trust company registered under that Act or a debenture or like obligation issued by a loan corporation registered under that Act, but not including any money so received or debenture or like obligation so issued on or after the 17th day of April, 1967, unless the trust company or loan corporation, as the case may be, is obligated, or may by demand of the depositor become obligated, to repay the money so received or the debenture or like obligation so issued on or before the fifth anniversary of the date of receipt of such money or the fifth anniversary of the date of issue of such debenture or like obligation, as the case may be. 1967, c. 62, s. 2, *part.*

25.—(1) All deposits with a member institution that does not hold a policy of deposit insurance issued by the Canada Deposit Insurance Corporation are insured by the Corporation except, Deposits insured

- (a) a deposit that is not payable in Canada or in Canadian currency;
- (b) so much of any one deposit, including interest thereon, as exceeds \$20,000; and
- (c) deposits insured under terminated or cancelled deposit insurance under section 28 of the *Canada Deposit Insurance Corporation Act*. 1967, c. 62, s. 3. 1966-67,
c. 70 (Can.)

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by the Corporation, the Corporation as soon as possible after the obligation arises shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the member institution with which the deposit was made, Payment

- (a) by making available to such person a transferred deposit with another member institution for so much of his deposit as is insured by the Corporation; or

- (b) by paying such person a sum equal to so much of his deposit as is insured by the Corporation.

Effect of
payment

(3) Payment under this section by the Corporation in respect of any deposit insured by the Corporation discharges the Corporation from all liability in respect of that deposit, and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made.

Subrogation

(4) Where the Corporation makes a payment under this section in respect of any deposit with a member institution, the Corporation is subrogated for so much of that deposit as is insured by the Corporation to all the rights and interest of the depositor as against that member institution. 1967, c. 61, s. 24 (2-4).

Commence-
ment of
insurance,
existing
member
institutions

26.—(1) Except as provided in section 25, the deposits with a member institution that is carrying on business on the 10th day of February, 1967 are insured by the Corporation from and after that date in accordance with this Act.

Idem,
future
member
institutions

(2) Except as provided in section 25, when a member institution commences business on or after the 10th day of February, 1967, the deposits with such member institution are insured by the Corporation in accordance with this Act on and after the day on which such member institution commences business. 1967, c. 61, s. 25, *amended*.

Premiums
are debts

27. A premium assessed by the Corporation against a member institution for the purposes of this Act constitutes a debt owing to Her Majesty in right of Ontario, and the amount thereof together with any interest levied by the Corporation as an overdue charge is recoverable by the Corporation by action in any court of competent jurisdiction. 1967, c. 61, s. 26.

Disposition
of premiums

28. All premiums received by the Corporation shall be credited to a Deposit Insurance Fund to be maintained by the Corporation. 1967, c. 61, s. 27.

Assessment
and collec-
tion of
premiums

29.—(1) The Corporation shall each year assess and collect from each member institution an annual premium equal to the greater of,

- (a) \$500; or
- (b) one-thirtieth of 1 per cent of the total amount of such deposits as are deposited with the member institution on the date as of which the return mentioned in subsection 2 is filed with the Corporation and as are insured by the Corporation.

Annual
return

(2) Each member institution shall file with the Corporation annually a return to be certified by the member institution and

submitted in such form as of such date and at such time as the Corporation may require.

(3) One-half of the premium payable by a member institution shall be paid to the Corporation on or before the 30th day of June in the year in which the annual return is to be filed, and the balance shall be paid to the Corporation, without interest, on or before the 31st day of December in that year. Payable in instalments

(4) Notwithstanding anything in this section, the Corporation may charge interest not in excess of 10 per cent per annum on the amount of any premium or any part thereof not paid on or before the due date thereof. 1967, c. 61, s. 28. Interest

(5) Notwithstanding anything in this Act, the Lieutenant Governor in Council may authorize and direct the repayment to a member institution of the whole or any part of any premium paid to the Corporation. 1967, c. 62, s. 4. Repayments of premiums authorized

30.—(1) The Corporation shall maintain an account to be known as the Accumulated Net Earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all operating expenses, losses and specific provisions for losses in respect of insurance and losses on sales of securities. Accumulated Net Earnings

(2) The Accumulated Net Earnings shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from the Deposit Insurance Fund. 1967, c. 61, s. 29. Separate item in report

31.—(1) The Registrar shall, on behalf of the Corporation, examine the affairs of each member institution at such times as the Corporation may require but no less frequently than once in each year. 1967, c. 61, s. 30. Inspection of books

(2) The Registrar, at the request of the Canada Deposit Insurance Corporation and on such terms and conditions as may be approved by the Minister, may examine the affairs of any loan corporation or trust company registered under *The Loan and Trust Corporations Act* and report thereon to the Canada Deposit Insurance Corporation. Examination of affairs authorized
R.S.O. 1970, c. 254

(3) In any examination authorized under subsection 2, the Registrar has and may exercise any of the powers given him by subsections 3, 4 and 5 of section 126 of *The Loan and Trust Corporations Act*. 1967, c. 62, s. 5. Powers of Registrar

32.—(1) After each examination of the affairs of a member institution, the Registrar shall report to the Corporation whether or not, in his opinion, there has been any change in the circum- Contents of examiner's report

stances of the member institution that might materially affect the position of the Corporation as an insurer and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

- (a) the returns made by the member institution and on which payment of its premiums were based are correct;
- (b) the operations of the member institution are being conducted in accordance with sound business and financial practices; and
- (c) the member institution is in a satisfactory financial condition.

Idem

R.S.O. 1970,
c. 254

(2) Each such report shall further state whether or not, in the opinion of the Registrar, there has been any breach of the provisions of *The Loan and Trust Corporations Act* and in particular, without limiting the generality of the foregoing, whether or not, in his opinion, there has been any breach of the provisions of *The Loan and Trust Corporations Act* with respect to,

- (a) borrowing powers;
- (b) reserves required on deposit under sections 81 and 93 of that Act; and
- (c) investments authorized by that Act. 1967, c. 61, s. 31.

Reporting
of defects
and
breaches

33.—(1) Where in the opinion of the Corporation, whether such opinion is based upon consideration of a report from the Registrar or upon any other report or information, a member institution,

- (a) is or may be following unsound business or financial practices; or
- (b) is or may be in breach of any provision of this Act; or
- (c) is or may be in breach of any provision of *The Loan and Trust Corporations Act*; or
- (d) is not or may not be in a satisfactory financial condition,

the Corporation shall, in writing and by registered mail, report the same to the president or chairman of the board of directors of the member institution and he shall cause such report to be presented to a meeting of the directors of the member institution within a period of thirty days after its date of receipt and such report shall be incorporated in the minutes of that meeting of directors.

Copy to
Minister

(2) The Corporation shall deliver a copy of each such report to the Minister. 1967, c. 61, s. 32.

Rehabilita-
tion
proceedings

34.—(1) Where the Registrar has reported to the Corporation that, in his opinion, the affairs of a member institution are not in a

satisfactory financial condition and the Corporation has reported that, in its opinion, the affairs of the member institution are not in a satisfactory financial condition and where the Minister, after a reasonable time has been given to the member institution to be heard by him and upon such further inquiry and investigation as he sees fit to make, reports to the Lieutenant Governor in Council that he agrees with the opinions of the Registrar and of the Corporation, the Lieutenant Governor in Council may, if he also agrees with the opinions, order the Corporation forthwith to take possession of the property of the member institution and to conduct the business thereof and to take such steps as in its opinion, may be taken toward the removal of the causes and conditions that have made such proceedings necessary.

(2) The Corporation shall thereupon take possession of the property of such member institution and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions that have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing, Idem

- (a) the Corporation has all the powers of the board of directors of the member institution;
- (b) the Corporation has power to exclude the member institution and its servants and agents from the property and business of the member institution; and
- (c) the Corporation has power to carry on, manage and conduct the operations of the member institution and in the name of the member institution to preserve, maintain, realize, dispose of and add to the property of the member institution, to receive the incomes and revenues of the member institution and to exercise all the powers of the member institution.

(3) Upon the request of a member institution and with the approval of the Lieutenant Governor in Council, the Corporation may with respect to such member institution exercise the powers mentioned in subsection 2. 1967, c. 61, s. 33, *amended*. Idem,
upon
request

35. If at any time the Corporation considers that further efforts to place the affairs of a member institution in a satisfactory financial condition would be futile or that the affairs of the member institution have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the member institution to it, and upon such return the powers of the Corporation under subsection 2 of section 34 as a result of the order of the Lieutenant Governor in Council under which the Corporation took possession of the property of the member institution terminate. 1967, c. 61, s. 34. Where
efforts
futile

Appeal

36.—(1) A member institution may appeal to a judge of the Court of Appeal from any order made by the Lieutenant Governor in Council under subsection 1 of section 34 within thirty days after the making of such order and the delivery of a copy thereof to an officer of the member institution and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, except that the Rules Committee may vary and amend such practice and procedure in respect of appeals taken under this section.

Record

(2) The Minister shall certify to the Registrar of the Supreme Court,

- (a) the reports of the Registrar and of the Corporation that have been reviewed by the Minister and by the Lieutenant Governor in Council;
- (b) the record of the reviews; and
- (c) all written submissions to the Registrar and to the Lieutenant Governor in Council and other material that in the opinion of the Minister are relevant to the appeal.

Counsel

(3) The Minister of Justice and Attorney General may designate counsel to assist the judge upon the hearing of any appeal taken under this section.

Order

(4) Where an appeal is taken under this section, the judge may by order direct the Corporation to take such action as the judge considers proper and thereupon the Corporation shall act accordingly.

Further
decision

(5) Notwithstanding the final disposition of an appeal under this section, the Minister and the Lieutenant Governor in Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. 1967, c. 61, s. 35, *amended*.

PART IV

OFFENCES

Holding
out

37.—(1) Every person, other than a member institution, who, by any written or oral representation of any kind, advertises or holds out any company or corporation as being insured or approved for insurance by the Corporation is guilty of an offence.

Advertising

(2) Every member institution that makes any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the

manner and on the occasions prescribed by the by-laws is guilty of an offence.

(3) Every director, officer or employee of a member institution and every auditor thereof who knowingly prepares, signs, approves or concurs in any account, statement, return, report or document respecting the affairs of the member institution required by the Registrar, by the Minister or by the Corporation for the purposes of this Act and containing any false or deceptive information or any return that does not present fairly information required by the Registrar, the Minister or the Corporation for the purposes of this Act is guilty of an offence. False returns, etc.

(4) Every person who, being a president or chairman of the board of directors of a member institution, fails or neglects to present to a meeting of the directors of the member institution, as required by section 33, a report of the Corporation made under that section is guilty of an offence, and, if the directors of the member institution fail or neglect to incorporate such report in the minutes of a meeting of the directors as required by section 33, each director present at such meeting is guilty of an offence. Failure to present report, etc.

(5) Every person, other than a corporation or company, guilty of an offence under this section is on summary conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. Penalties, individuals

(6) Every corporation or company guilty of an offence under this section is on summary conviction liable to a fine of not more than \$25,000. 1967, c. 61, s. 36. Idem, corporations

